

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA, on behalf of the UNITED STATES DEPARTMENT OF LABOR;)	
)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
PAR PARTNERSHIP, INC., d/b/a OUTDOOR SOLUTIONS;)	
)	
)	
Defendant.)	

COMPLAINT

COMES NOW the United States of America on behalf of its agency, the U.S. Department of Labor, by and through its attorneys, Carrie Costantin, Acting United States Attorney for the Eastern District of Missouri, and Joshua M. Jones, Assistant United States Attorney for said District, and upon information and belief, states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1345, which grants district courts original jurisdiction of all civil actions commenced by the United States.
2. Venue properly lies with this Court pursuant to 28 U.S.C. § 1391(b)(1) because the Defendant is located in the Eastern District of Missouri. Venue also lies with this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this claim occurred in the Eastern District of Missouri.
3. Divisional venue is proper in the Eastern Division pursuant to E.D. Mo. L.R. 3-2.07(B)(1) because the Defendant is located in Jefferson County, Missouri.

PARTIES

4. Plaintiff is the United States of America, on behalf of the United States Department of Labor (the “Department of Labor”).

5. Defendant PAR Partnership, Inc., doing business as Outdoor Solutions (hereinafter “PAR Partnership”) is a general for profit business incorporated with the Missouri Secretary of State’s Office, Charter No. 00478281. PAR Partnership’s registered agent is Patrick M. O’Neal, 1400 Shawnee Court, Arnold, Missouri 63010. PAR Partnership’s principal place of business is located at 1400 Shawnee Court, Arnold, Missouri 63010.

RELEVANT FACTS

6. On April 25, 2016, the Department of Labor sent PAR Partnership a determination letter in response to violations of the H-2B provisions of the Immigration and Nationality Act. The Department of Labor determined that PAR Partnership owed unpaid wages of \$298,612.00 to 38 H-2B nonimmigrant workers and an assessment of civil money penalties of \$56,200.00. *See* Attached Exhibit A.

7. The April 25, 2016, determination letter notified PAR Partnership that it had the right to request a hearing, and provided PAR Partnership instructions about how it could go about seeking a hearing. Specifically, the determination letter notified PAR Partnership that should it want a hearing, it must send a typewritten letter explaining the reasons for the request to the Chief Administrative Law Judge within thirty (30) days after the date of the determination letter. Finally the letter warned PAR Partnership that failure to file a timely request for hearing would result in the determination being made final.

8. PAR Partnership failed to timely request a hearing within the thirty (30) day time frame. Accordingly, on July 29, 2016, the Department of Labor sent a follow-up letter to PAR

Partnership notifying it that the \$298,612.00 wage assessment and the \$56,200.00 civil penalty assessment were final and un-appealable. *See* Attached Exhibit B.

9. On August 1, 2016, PAR Partnership submitted an untimely letter requesting a hearing to the Associate Regional Solicitor in Kansas City, Missouri. The Department of Labor's Office of Solicitor forwarded the letter to the Office of Administrative Law Judges in Washington, D.C. The matter was assigned to Administrative Law Judge Larry A. Temin.

10. The Department of Labor, through the Office of Solicitor, filed a motion to dismiss PAR Partnership's appeal on September 29, 2016. After giving PAR Partnership an opportunity to respond, Administrative Judge Temin issued an Order of Dismissal on November 7, 2016. *See* Attached Exhibit C (Case No. 2016-TNE-00016). In the order, Administrative Judge Temin determined that PAR Partnership's request for hearing was "filed over 70 days late" and that PAR Partnership "has offered no reason why the appeal was not timely filed other than Mr. O'Neal's assertion that he is semi-retired and sometimes does not check his mail for four to five weeks." Ultimately, Administrative Judge Temin dismissed PAR Partnership's appeal as untimely filed.

11. As of November 7, 2016, the total debt due by PAR Partnership to the United States is \$354,812.00.

COUNT I – OUTSTANDING DEBT OWED TO THE UNITED STATES

12. The Department of Labor restates and incorporates the allegations contained in Paragraphs 1-11 above.

13. Pursuant to the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(b) *et seq.*, 1184(c)(14), and 20 C.F.R. Part 655, subpart A (2008), the Department of Labor is tasked with investigating potential H-2B violations.

14. The \$298,612.00 wage assessment and \$56,200.00 civil penalty assessment became final, and due immediately, when PAR Partnership failed to timely request a hearing. *See* 29 C.F.R. § 503.43(e).

15. Pursuant to the Debt Collection Improvement Act of 1996, 37 U.S.C. § 3701 *et seq.*, the debt owed by PAR Partnership is subject to the assessment of interest, administrative cost charges and penalties. *See* 31 U.S.C. § 3717.

WHEREFORE, the United States of America prays for judgment against Defendant PAR Partnership, in the sum of \$354,812.00 plus interest, administrative costs charges, and penalties as provided for by 31 U.S.C. § 3717, and for such other relief as the Court may deem just and proper.

Respectfully submitted,

CARRIE COSTANTIN
Acting United States Attorney



/s/ Joshua M. Jones

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